

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NATALIE LYNN W.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

NO. 2:21-CV-0231-TOR

ORDER GRANTING DEFENDANT’S
MOTION FOR SUMMARY
JUDGMENT

BEFORE THE COURT are the parties’ cross-motions for summary judgment (ECF Nos. 13, 14). This matter was submitted for consideration without oral argument. The Court has reviewed the administrative record, the parties’ briefing, and is fully informed. For the reasons discussed below, the Court **DENIES** Plaintiff’s motion and **GRANTS** Defendant’s motion.

JURISDICTION

The Court has jurisdiction pursuant to 42 U.S.C. §§ 405(g), 1383(c)(3).

STANDARD OF REVIEW

A district court's review of a final decision of the Commissioner of Social Security is governed by 42 U.S.C. § 405(g). The scope of review under § 405(g) is limited: The Commissioner's decision will be disturbed "only if it is not supported by substantial evidence or is based on legal error." *Hill v. Astrue*, 698 F.3d 1153, 1158-59 (9th Cir. 2012) (citing 42 U.S.C. § 405(g)). "Substantial evidence" means relevant evidence that "a reasonable mind might accept as adequate to support a conclusion." *Id.* at 1159 (quotation and citation omitted). Stated differently, substantial evidence equates to "more than a mere scintilla[,] but less than a preponderance." *Id.* (quotation and citation omitted). In determining whether this standard has been satisfied, a reviewing court must consider the entire record as a whole rather than searching for supporting evidence in isolation. *Id.*

In reviewing a denial of benefits, a district court may not substitute its judgment for that of the Commissioner. *Edlund v. Massanari*, 253 F.3d 1152, 1156 (9th Cir. 2001). If the evidence in the record "is susceptible to more than one rational interpretation, [the court] must uphold the ALJ's findings if they are supported by inferences reasonably drawn from the record." *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012), *superseded by regulation on other grounds*. Further, a district court "may not reverse an ALJ's decision on account of an error that is harmless." *Id.* An "error is harmless where it is 'inconsequential to the

1 ultimate nondisability determination.” *Id.* at 1115 (citation omitted). The party
2 appealing the ALJ’s decision generally bears the burden of establishing that it was
3 harmed. *Shinseki v. Sanders*, 556 U.S. 396, 409-10 (2009).

4 **FIVE STEP SEQUENTIAL EVALUATION PROCESS**

5 A claimant must satisfy two conditions to be considered “disabled” within
6 the meaning of the Social Security Act. First, the claimant must be unable “to
7 engage in any substantial gainful activity by reason of any medically determinable
8 physical or mental impairment which can be expected to result in death or which
9 has lasted or can be expected to last for a continuous period of not less than 12
10 months.” 42 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). Second, the claimant’s
11 impairment must be “of such severity that [he or she] is not only unable to do [his
12 or her] previous work[,] but cannot, considering [his or her] age, education, and
13 work experience, engage in any other kind of substantial gainful work which exists
14 in the national economy.” 42 U.S.C. §§ 423(d)(2)(A), 1382c(a)(3)(B).

15 The Commissioner has established a five-step sequential analysis to
16 determine whether a claimant satisfies the above criteria. *See* 20 C.F.R. §§
17 404.1520(a)(4)(i)-(v), 416.920(a)(4)(i)-(v). At step one, the Commissioner
18 considers the claimant’s work activity. 20 C.F.R. §§ 404.1520(a)(4)(i),
19 416.920(a)(4)(i). If the claimant is engaged in “substantial gainful activity,” the
20

1 Commissioner must find that the claimant is not disabled. 20 C.F.R. §§
2 404.1520(b), 416.920(b).

3 If the claimant is not engaged in substantial gainful activities, the analysis
4 proceeds to step two. At this step, the Commissioner considers the severity of the
5 claimant's impairment. 20 C.F.R. §§ 404.1520(a)(4)(ii), 416.920(a)(4)(ii). If the
6 claimant suffers from "any impairment or combination of impairments which
7 significantly limits [his or her] physical or mental ability to do basic work
8 activities," the analysis proceeds to step three. 20 C.F.R. §§ 404.1520(c),
9 416.920(c). If the claimant's impairment does not satisfy this severity threshold,
10 however, the Commissioner must find that the claimant is not disabled. *Id.*

11 At step three, the Commissioner compares the claimant's impairment to
12 several impairments recognized by the Commissioner to be so severe as to
13 preclude a person from engaging in substantial gainful activity. 20 C.F.R. §§
14 404.1520(a)(4)(iii), 416.920(a)(4)(iii). If the impairment is as severe or more
15 severe than one of the enumerated impairments, the Commissioner must find the
16 claimant disabled and award benefits. 20 C.F.R. §§ 404.1520(d), 416.920(d).

17 If the severity of the claimant's impairment does meet or exceed the severity
18 of the enumerated impairments, the Commissioner must pause to assess the
19 claimant's "residual functional capacity" ("RFC"). RFC, defined generally as the
20 claimant's ability to perform physical and mental work activities on a sustained

1 basis despite his or her limitations (20 C.F.R. §§ 404.1545(a)(1), 416.945(a)(1)), is
2 relevant to both the fourth and fifth steps of the analysis.

3 At step four, the Commissioner considers whether, in view of the claimant's
4 RFC, the claimant is capable of performing work that he or she has performed in
5 the past ("past relevant work"). 20 C.F.R. §§ 404.1520(a)(4)(iv),
6 416.920(a)(4)(iv). If the claimant is capable of performing past relevant work, the
7 Commissioner must find that the claimant is not disabled. 20 C.F.R. §§
8 404.1520(f), 416.920(f). If the claimant is incapable of performing such work, the
9 analysis proceeds to step five.

10 At step five, the Commissioner considers whether, in view of the claimant's
11 RFC, the claimant is capable of performing other work in the national economy.
12 20 C.F.R. §§ 404.1520(a)(4)(v), 416.920(a)(4)(v). In making this determination,
13 the Commissioner must also consider vocational factors such as the claimant's age,
14 education and work experience. *Id.* If the claimant is capable of adjusting to other
15 work, the Commissioner must find that the claimant is not disabled. 20 C.F.R. §§
16 404.1520(g)(1), 416.920(g)(1). If the claimant is not capable of adjusting to other
17 work, the analysis concludes with a finding that the claimant is disabled and is
18 therefore entitled to benefits. *Id.*

19 The claimant bears the burden of proof at steps one through four above.
20 *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999). If the analysis proceeds to

1 step five, the burden shifts to the Commissioner to establish that (1) the claimant is
2 capable of performing other work; and (2) such work “exists in significant
3 numbers in the national economy.” 20 C.F.R. §§ 404.1560(c)(2), 416.960(c)(2);
4 *Beltran v. Astrue*, 700 F.3d 386, 389 (9th Cir. 2012).

5 **ALJ’S FINDINGS**

6 On September 10, 2019, Plaintiff filed applications for Title II period of
7 disability and disability insurance benefits and Title XVI supplemental security
8 income. Tr. 189-207. The applications were denied initially, Tr. 51-74, and on
9 reconsideration. Tr. 75-100. On March 31, 2021, Plaintiff appeared at a
10 telephonic hearing before an administrative law judge (“ALJ”). Tr. 32-50. On
11 April 16, 2021, the ALJ denied Plaintiff’s claims. Tr. 12-31.

12 At step one of the sequential evaluation process, the ALJ found Plaintiff had
13 not engaged in substantial gainful activity since May 1, 2019, the alleged onset
14 date. Tr. 17. At step two, the ALJ found Plaintiff had the following severe
15 impairments: atrial fibrillation, seizure disorder, hypothyroidism, and morbid
16 obesity. Tr. 18. At step three, the ALJ found Plaintiff did not have an impairment
17 or combination of impairments that meets or medically equals the severity of a
18 listed impairment. Tr. 19. The ALJ then found Plaintiff had the RFC to perform
19 light work with the following limitations:
20

1 [Plaintiff] can occasionally perform postural activities with the
2 exception of no climbing of ladders, ropes or scaffolds and no
3 kneeling, crouching or crawling, avoid concentrated exposure to
respiratory irritants and extreme cold, avoid all exposure to hazards
such as unprotected heights and dangerous moving machinery.

4 Tr. 20.

5 At step four, the ALJ found Plaintiff was unable to perform any past relevant
6 work. Tr. 24. At step five, the ALJ found that, considering Plaintiff's age,
7 education, work experience, and RFC, there were other jobs that existed in
8 significant numbers in the national economy that Plaintiff could perform such as
9 marker, routing clerk, and router. Tr. 24-25. The ALJ concluded Plaintiff was not
10 under a disability, as defined in the Social Security Act, from May 1, 2019 through
11 April 16, 2021, the date of the ALJ's decision. Tr. 25-26.

12 On July 12, 2021, the Appeals Council denied review, Tr. 1-6, making the
13 ALJ's decision the Commissioner's final decision for purposes of judicial review.
14 *See* 42 U.S.C. § 1383(c)(3).

15 ISSUES

16 Plaintiff seeks judicial review of the Commissioner's final decision denying
17 disability insurance benefits and supplemental security income benefits under Title
18 II and Title XVI of the Social Security Act. Plaintiff raises the following issues for
19 this Court's review:

20 //

- 1 1. Whether the ALJ properly evaluated Plaintiff's symptom testimony; and
- 2 2. Whether the ALJ properly evaluated the medical opinion evidence; and
- 3 3. Whether the ALJ properly evaluated Plaintiff's mental impairments.

4 ECF No. 13 at 13, 16.

5 DISCUSSION

6 A. Step Two

7 Plaintiff asserts the ALJ erred by concluding her mental impairments are
8 non-severe. ECF No. 13 at 16.

9 At step two of the sequential evaluation process, the ALJ considers the
10 severity of the claimant's impairment. 20 C.F.R. §§ 404.1520(a)(4)(ii),
11 416.920(a)(4)(ii). If the claimant suffers from "any impairment or combination of
12 impairments which significantly limits [his or her] physical or mental ability to do
13 basic work activities," the analysis proceeds to step three. 20 C.F.R. §§
14 404.1520(c), 416.920(c). Step two is "a de minimis screening device [used] to
15 dispose of groundless claims." *Smolen v. Chater*, 80 F.3d 1273, 1290 (9th Cir.
16 1996). "Thus, applying our normal standard of review to the requirements of step
17 two, [the Court] must determine whether the ALJ had substantial evidence to find
18 that the medical evidence clearly established that [Plaintiff] did not have a
19 medically severe impairment or combination of impairments." *Webb v. Barnhart*,
20 433 F.3d 683, 687 (9th Cir. 2005).

1 In evaluating a claimant's mental impairments, an ALJ follows a special
2 two-step psychiatric review technique. 20 C.F.R. §§ 404.1520a, 416.920a. First,
3 the ALJ must determine whether there is a medically determinable impairment. 20
4 C.F.R. §§ 404.1520a(b)(1), 416.920a(b)(1). If the ALJ determines an impairment
5 exists, the ALJ must rate the degree of functional limitation resulting from the
6 impairment in the following four broad functional categories: (1) understand,
7 remember, or apply information; (2) interact with others; (3) concentrate, persist,
8 or maintain pace; and (4) adapt or manage oneself. 20 C.F.R. §§ 404.1520a(c)(3),
9 416.920a(c)(3). If the ALJ rates the degree of limitation as "none" or "mild," the
10 ALJ will generally conclude the impairment is not severe. 20 C.F.R. §§
11 404.1520a(d)(1), 416.920a(d)(1). As to the first step, the impairment must be
12 shown by objective medical evidence such as medically acceptable clinical or
13 laboratory diagnostic techniques; a claimant's statement regarding symptoms, a
14 diagnosis, or medical opinion is insufficient to establish the existence of an
15 impairment. 20 C.F.R. §§ 404.1521, 416.921.

16 The ALJ found Plaintiff's medically determinable mental impairments of
17 adjustment disorder and anxiety, considered singly and in combination, did not
18 cause more than a minimal limitation in Plaintiff's ability to perform basic mental
19 work activities and are therefore non-severe. Tr. 18. The ALJ found Plaintiff had
20 no limitations in the first, second, and fourth functional areas and had a mild

1 limitation in the third functional area. Tr. 19. The ALJ noted Plaintiff does not
2 seek mental health treatment and that her mental status examinations are largely
3 unremarkable. Tr. 18 (citations to the record omitted). Instead of seeking mental
4 health treatment, Plaintiff stated she “talks to [her] friend on Facebook.” *Id.*
5 Finally, the ALJ noted the DDS psychologists also opined that the mental health
6 impairments are non-severe. *Id.*

7 Plaintiff disagrees that her mental impairments are non-severe based on her
8 own statements and Dr. Arnold’s opinion. ECF No. 13 at 16. Plaintiff’s own
9 statements regarding her symptoms are insufficient to establish the existence of
10 any impairment. 20 C.F.R. §§ 404.1521, 416.921. Moreover, as discussed *infra*,
11 the ALJ reasonably discounted Dr. Arnold’s opinion. Even considering this
12 evidence, where evidence “is susceptible to more than one rational interpretation,
13 [the Court] must uphold the ALJ’s findings if they are supported by inferences
14 reasonably drawn from the record.” *Molina*, 674 F.3d at 1111. The ALJ’s finding
15 at step-two is supported by substantial evidence.

16 In any event, step-two was decided in Plaintiff’s favor and Plaintiff has not
17 pointed to any evidence that functional limitations would have impacted the ALJ’s
18 analysis at step five. *Burch v. Barnhart*, 400 F.3d 676, 682 (9th Cir. 2005). The
19 Court finds that the ALJ did not err at step two.

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B. Plaintiff's Symptom Testimony

Plaintiff contends the ALJ failed to rely on clear and convincing reasons to discredit her symptom testimony. ECF No. 13 at 13-17.

An ALJ engages in a two-step analysis to determine whether to discount a claimant's testimony regarding subjective symptoms. Social Security Ruling ("SSR") 16-3p, 2016 WL 1119029, at *2. "First, the ALJ must determine whether there is 'objective medical evidence of an underlying impairment which could reasonably be expected to produce the pain or other symptoms alleged.'" *Molina*, 674 F.3d at 1112 (quoting *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009)). "The claimant is not required to show that her impairment 'could reasonably be expected to cause the severity of the symptom she has alleged; she need only show that it could reasonably have caused some degree of the symptom.'" *Vasquez*, 572 F.3d at 591 (quoting *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035-36 (9th Cir. 2007)).

Second, "[i]f the claimant meets the first test and there is no evidence of malingering, the ALJ can only reject the claimant's testimony about the severity of the symptoms if [the ALJ] gives 'specific, clear and convincing reasons' for the rejection." *Ghanim v. Colvin*, 763 F.3d 1154, 1163 (9th Cir. 2014) (citations omitted). General findings are insufficient; rather, the ALJ must identify what symptom claims are being discounted and what evidence undermines these claims.

1 *Id.* (quoting *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995)); *Thomas v.*
2 *Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002) (requiring the ALJ to sufficiently
3 explain why he or she discounted claimant’s symptom claims). “The clear and
4 convincing standard is the most demanding required in Social Security cases.”
5 *Garrison v. Colvin*, 759 F.3d 995, 1015 (9th Cir. 2014) (quoting *Moore v. Comm’r*
6 *of Soc. Sec. Admin.*, 278 F.3d 920, 924 (9th Cir. 2002)).

7 Factors to be considered in evaluating the intensity, persistence, and limiting
8 effects of a claimant’s symptoms include: (1) daily activities; (2) the location,
9 duration, frequency, and intensity of pain or other symptoms; (3) factors that
10 precipitate and aggravate the symptoms; (4) the type, dosage, effectiveness, and
11 side effects of any medication an individual takes or has taken to alleviate pain or
12 other symptoms; (5) treatment, other than medication, an individual receives or has
13 received for relief of pain or other symptoms; (6) any measures other than
14 treatment an individual uses or has used to relieve pain or other symptoms; and (7)
15 any other factors concerning an individual’s functional limitations and restrictions
16 due to pain or other symptoms. SSR 16-3p, 2016 WL 1119029, at *7-8; 20 C.F.R.
17 §§ 416.929(c)(3), 416.929(c)(3). The ALJ is instructed to “consider all of the
18 evidence in an individual’s record,” “to determine how symptoms limit ability to
19 perform work-related activities.” SSR 16-3p, 2016 WL 1119029, at *2.

1 The ALJ found Plaintiff's impairments could reasonably be expected to
2 cause the alleged symptoms; however, Plaintiff's statements concerning the
3 intensity, persistence, and limiting effects of those symptoms were not entirely
4 consistent with the evidence. Tr. 21.

5 *1. Objective Medical Evidence*

6 The ALJ found Plaintiff's symptom complaints inconsistent with the
7 objective medical evidence in the record. Tr. 21. An ALJ may not discredit a
8 claimant's symptom testimony and deny benefits solely because the degree of the
9 symptoms alleged is not supported by objective medical evidence. *Burch v.*
10 *Barnhart*, 400 F.3d 676, 680 (9th Cir. 2005); *Rollins v. Massanari*, 261 F.3d 853,
11 856-857 (9th Cir. 2001); *Bunnell v. Sullivan*, 947 F.2d 341, 346-47 (9th Cir. 1991);
12 *Fair v. Bowen*, 885 F.2d 597, 601 (9th Cir. 1989). However, the objective medical
13 evidence is a relevant factor, along with the medical source's information about the
14 claimant's pain or other symptoms, in determining the severity of a claimant's
15 symptoms and their disabling effects. *Rollins*, 261 F.3d at 857; 20 C.F.R. §§
16 404.1529(c)(2); 416.929(c)(2).

17 The ALJ found Plaintiff's heart condition largely benign with EKG
18 demonstrating normal sinus rhythm and Holter monitor demonstrating only
19 occasional premature atrial contractions with occasional periods of atrial bigeminy,
20 rare premature ventricular contractions, and no atrial fibrillation, significant pauses

1 or sustained arrhythmias. Tr. 21 (citations to the record omitted). While Plaintiff
2 reported weakness and fatigue, the ALJ noted few exams showed Plaintiff as “tired
3 appearing.” *Id.* While Plaintiff reported numbness, the ALJ found NCS/EMG
4 testing was entirely normal, and the majority of exams shows intact sensation. Tr.
5 22 (citations to the record omitted). While Plaintiff alleges frequent diarrhea, the
6 ALJ found the treatment records demonstrate it is not significantly limiting. *Id.*
7 (citation to the record omitted). Overall, the ALJ found Plaintiff consistently
8 presented as alert and oriented, in no acute distress, with normal strength, normal
9 sensation, no edema, no tremors, no tenderness, normal DTRs, normal reflexes,
10 normal gait, and normal coordination. Tr. 21 (citations to the record omitted).

11 The ALJ reasonably concluded the objective medical evidence was
12 inconsistent with Plaintiff’s allegations of disabling conditions. This finding is
13 supported by substantial evidence. While a different interpretation could be made
14 based on some of the objective medical evidence, the ALJ articulated several other
15 supported grounds for discounting Plaintiff’s reported symptoms. *See Carmickle*,
16 533 F.3d 1155, 1163 (9th Cir. 2008)

17 2. *Medical Opinions*

18 Medical opinions may be used to evaluate the consistency of symptom
19 testimony. 20 C.F.R. §§ 404.1529(c)(3), 416.929(c)(3). First, the ALJ noted the
20 that DDS physical medical consultants opined Plaintiff is capable of performing

1 light to medium level work. Tr. 21. Second, the ALJ relied on the opinion of Dr.
2 Jerry Seligman, who testified that Plaintiff's atrial fibrillation, seizure, and
3 hypothyroid are largely controlled and that Plaintiff is capable of performing
4 essentially light level work consistent with the outlined RFC. *Id.*

5 Plaintiff vaguely argues that "what is not consistent would be the opinions of
6 nonexamining, nontreating doctors who testified as a medical expert at the hearing
7 [i.e., Dr. Seligman]. Their opinions are contrary to the objective finding and
8 contrary to the opinions of the treating practitioners." ECF No. 13 at 16. The ALJ
9 properly assessed the opinion of Dr. Seligman, as discussed *infra*. The ALJ's
10 finding is supported by substantial evidence.

11 3. *Unchallenged Findings*

12 The Court notes the ALJ relied on other reasons to discount Plaintiff's
13 subjective symptom testimony that Plaintiff does not challenge in her opening
14 brief. *See* ECF No. 13.

15 A claimant's course of treatment is a relevant factor in determining the
16 severity of symptoms. 20 C.F.R. §§ 404.1529(c)(3), 416.929(c)(3). First, the ALJ
17 found the treatment records demonstrated that medication controls Plaintiff's
18 seizures (last seizure in 2016), atrial fibrillation (mild findings), and
19 hypothyroidism (stabilizing). Tr. 21 (citations to the record omitted).
20 Additionally, when asked if she received treatment for her mental health

1 conditions, Plaintiff admitted she does not seek treatment but that she talks with a
2 friend on Facebook. Tr. 18. The ALJ's unchallenged findings based on Plaintiff's
3 course of treatment are supported by substantial evidence.

4 Moreover, daily activities are another relevant factor in determining the
5 severity of symptoms. 20 C.F.R. §§ 404.1529(c)(3), 416.929(c)(3). While
6 Plaintiff testified she could walk no more than 25 feet, the ALJ noted that she is
7 able to walk to and from physical therapy. Tr. 22 (citation to the record omitted).
8 Plaintiff has also reported being able to go shopping, do household chores, and
9 perform her home exercise program. *Id.* (citations to the record omitted). This
10 unchallenged finding is supported by substantial evidence.

11 The ALJ's finding that Plaintiff's symptom testimony conflicted with the
12 evidence in a multitude of ways was properly supported by substantial evidence.

13 **C. Medical Opinions**

14 Plaintiff summarily challenges the ALJ's evaluation of the opinions of Dr.
15 Cox, Dr. Arnold, and Ms. Sanders. ECF No. 13 at 17. Plaintiff does not
16 challenge, and the Court declines to address, the opinions of Drs. Platter, Stevick,
17 Forsyth, Gollogly, and Nievera. *Carmickle*, 533 F.3d at 1161, n.2. The Court will
18 review the opinion of Dr. Seligman, but notes that Plaintiff makes no specific
19 challenge to the opinion other than making the distinction that Dr. Seligman is a
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1 non-examining and non-treating doctor, an argument that appears to be based on
2 outdated regulations. ECF No. 13 at 17.

3 For claims filed on or after March 27, 2017, new regulations apply that
4 change the framework for how an ALJ must evaluate medical opinion evidence.
5 20 C.F.R. §§ 404.1520c, 416.920c(c); *see also Revisions to Rules Regarding the*
6 *Evaluation of Medical Evidence*, 2017 WL 168819, 82 Fed. Reg. 5844-01 (Jan. 18,
7 2017). The ALJ applied the new regulations because Plaintiff filed her Title II and
8 XVI claims after March 27, 2017. *See* Tr. 22-24.

9 Under the new regulations, the ALJ will no longer “give any specific
10 evidentiary weight . . . to any medical opinion(s).” *Revisions to Rules*, 2017 WL
11 168819, 82 Fed. Reg. 5844-01, 5867–68 (codified at 20 C.F.R. pts. 404 & 416).
12 Instead, an ALJ must consider and evaluate the persuasiveness of all medical
13 opinions or prior administrative medical findings from medical sources. 20 C.F.R.
14 §§ 404.1520c(a)-(b), 416.920c(a)-(b).

15 The factors for evaluating the persuasiveness of medical opinions and prior
16 administrative medical findings include supportability, consistency, relationship
17 with the claimant, specialization, and “other factors that tend to support or
18 contradict a medical opinion or prior administrative medical finding” including but
19 not limited to “evidence showing a medical source has familiarity with the other
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1 evidence in the claim or an understanding of our disability program’s policies and
2 evidentiary requirements.” 20 C.F.R. §§ 404.1520c(c)(1)-(5), 416.920c(c)(1)-(5).

3 The ALJ is required to explain how the most important factors,
4 supportability and consistency, were considered. 20 C.F.R. §§ 404.1520c(b)(2),
5 416.920c(b)(2). These factors are explained as follows:

6 (1) *Supportability*. The more relevant the objective medical evidence and
7 supporting explanations presented by a medical source are to support his
8 or her medical opinion(s) or prior administrative medical finding(s), the
9 more persuasive the medical opinions or prior administrative medical
10 finding(s) will be.

11 (2) *Consistency*. The more consistent a medical opinion(s) or prior
12 administrative medical finding(s) is with the evidence from other medical
13 sources and nonmedical sources in the claim, the more persuasive the
14 medical opinion(s) or prior administrative medical finding(s) will be.

15 20 C.F.R. §§ 404.1520c(c)(1)-(2), 416.920c(c)(1)-(2).

16 The ALJ may, but is not required to, explain how “the other most persuasive
17 factors in paragraphs (c)(3) through (c)(5)” were considered. 20 C.F.R. §§
18 404.1520c(b)(2), 416.920c(b)(2). However, where two or more medical opinions
19 or prior administrative findings “about the same issue are both equally well-
20 supported . . . and consistent with the record . . . but are not exactly the same,” the
ALJ is required to explain how “the other most persuasive factors” were
considered. 20 C.F.R. §§ 404.1520c(b)(3), 416.920c(b)(3).

1 These regulations displace the Ninth Circuit’s standard that require an ALJ
2 to provide “specific and legitimate” reasons for rejecting an examining doctor’s
3 opinion. *Woods v. Kijakazi*, 32 F.4th 785, 787 (9th Cir. 2022). As a result, the
4 ALJ’s decision for discrediting any medical opinion “must simply be supported by
5 substantial evidence.” *Id.*

6 1. *Lylanya Cox, M.D.*

7 The ALJ found Dr. Cox’s opinions unpersuasive. Tr. 23. The ALJ found
8 the check box form opinions provided no meaningful explanation and are
9 internally inconsistent. *Id.* Although Dr. Cox reported that Plaintiff is limited to
10 sedentary work but stated on another report from the same date that Plaintiff is
11 unable to work. *Id.* (citations to the record omitted). The ALJ also found while
12 Dr. Cox listed Plaintiff as having marked limitations due to atrial fibrillation and
13 Grave’s disease, the records showing both conditions are well controlled with
14 treatment. *Id.* The ALJ found one report involves an issue reserved to the
15 Commissioner. *Id.* at 23-24 (citing March 11, 2021 opinion that only states
16 “Plaintiff is unable to work”). Finally, the ALJ found Dr. Cox’s opinions
17 inconsistent with the opinions of the DDS physicians and Dr. Seligman, opinions
18 that Plaintiff does not specifically challenge. *Id.* The ALJ compared the opinions
19 to Dr. Seligman, who the ALJ found to be more persuasive. *Id.* The ALJ’s
20 assessment of this opinion is supported by substantial evidence.

1 2. *John Arnold, Ph.D.*

2 The ALJ found Dr. Arnold's opinion unpersuasive. Tr. 23. The ALJ found
3 the checkbox form dated May 15, 2019 contained no supporting explanation, and
4 was unsupported by Dr. Arnold's own largely benign mental status findings. *Id.*
5 The ALJ also found the opinion inconsistent with Plaintiff's lack of mental health
6 treatment and consistently benign mental status findings, as discussed *supra*. *Id.*
7 (citations to the record omitted). The ALJ found the opinion inconsistent with the
8 assessments of the DDS psychologists, whose opinions Plaintiff does not
9 challenge, because they had the opportunity to review the record. *Id.* The ALJ's
10 assessment of this opinion is supported by substantial evidence.

11 3. *Lisa Sanders, PA-C*

12 The ALJ found Ms. Sanders' letter unpersuasive. Tr. 22. As the ALJ
13 correctly noted, it is not a medical opinion as it does not state what Plaintiff can do
14 despite her impairments nor does it specify the degree of work-related limitations
15 related to thyroid issues. 20 C.F.R. §§ 404.1513(a)(2), 416.913(a)(2). The ALJ
16 did not err in not assessing this letter as medical opinion evidence.

17 4. *Dr. Seligman, M.D.*

18 The ALJ found Dr. Seligman's opinion persuasive. Tr. 22. In terms of
19 supportability, the ALJ found Dr. Seligman reviewed the entire longitudinal
20 medical record, gave a reasonable explanation of his opinion, and was available for

1 questioning at the hearing. In terms of consistency, the ALJ found Dr. Seligman's
2 opinion consistent with the largely unremarkable imaging and exam findings and
3 with the DDS assessments. *Id.* (citations to the record omitted). The ALJ also
4 noted that Dr. Seligman has specialized expertise and SSA program knowledge.
5 The ALJ's assessment of this opinion is supported by substantial evidence.

6 CONCLUSION

7 Having reviewed the record and the ALJ's findings, this Court concludes the
8 ALJ's decision is supported by substantial evidence and free of harmful legal error.

9 ACCORDINGLY, IT IS HEREBY ORDERED:

- 10 1. Plaintiff's Motion for Summary Judgment (ECF No. 13) is **DENIED**.
11 2. Defendant's Motion for Summary Judgment (ECF No. 14) is

12 **GRANTED.**

13 The District Court Executive is directed to enter this Order, enter judgment
14 accordingly, furnish copies to counsel, and **CLOSE** the file.

15 DATED June 1, 2022.



THOMAS O. RICE
United States District Judge